

MINUTES
TOWN OF EDGEWOOD
REGULAR COUNCIL MEETING – JUNE 16, 2010 @ 6:30 P.M.
EDGEWOOD COMMUNITY CENTER – # 27 E. FRONTAGE ROAD

• **CALL TO ORDER.**

Mayor Pro-tem Hill called the meeting to order at 6:30P.M. All Councilors were present with the exception of Councilor Simmons. Also present was Ms. Karen Mahalick, A.C.I.P. Administrator, Ms. Estefanie Muller, Clerk-Treasurer, and Ms. Erika Anderson, Town Attorney.

• **PLEDGE OF ALLEGIANCE.**

• **APPROVAL OF AGENDA.**

MOTION: Councilor Abrams made a motion to approve the Agenda as presented. Councilor Ring seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Mayor Pro-Tem Hill voted aye. The motion carried.

1. APPROVAL OF CONSENT AGENDA.

A. Regular Council Meeting Minutes of June 2, 2010.

B. Acknowledge Receipt of Planning & Zoning Commission Meeting Minutes of June 7, 2010.

C. Acknowledge Receipt of the Edgewood Police Department Report for the month of May, 2010.

D. Acknowledge Receipt of the Library Report and Meeting Minutes for the month of May, 2010.

E. Acknowledge Receipt of the Animal Control Report for the month of May, 2010.

Mayor Pro-Tem Hill requested one correction to the Regular Council Minutes of June 2, 2010.

MOTION: Councilor Ring made a motion to approve the Consent Agenda with a correction to the Regular Council Minutes of June 2, 2010, Item #1, correction to Town "Attorney". Councilor Abrams seconded the motion.

VOTE: Mayor Pro-Tem Hill voted aye. Councilor Abrams voted aye. Councilor Ring voted aye. The motion carried.

2. MATTERS FROM THE COUNCILORS and/or ANNOUNCEMENTS.

Mayor Pro-Tem Hill welcomed Mr. Hvtce Miller from Santa Fe County as well as Ms. Erika Anderson, Town Attorney.

Councilor Ring discussed the car show scheduled for Fathers Day at Valley View Church.

3. PUBLIC CELEBRATION PERMIT – Mr. Roger Alink.

A. Music, Arts & Crafts, Park Tours, Wine Tasting & Sales at Wildlife West Nature Park on July 17, 2010.

TAB 3.A.

ACTION REQUESTED OF COUNCIL:

Approve or disapprove of the public celebration permit.

BACKGROUND AND RATIONALE:

Mr. Roger Alink needs council approval for the state to issue a public celebration permit at Wildlife West Nature Park on July 17, 2010.

Ms. Mahalick stated the Mr. Alink was not available this evening. She reviewed the application for the Public Celebration Permit being requested by Wildlife West.

MOTION: Councilor Ring made a motion to approve the Public Celebration Permit for July 17, 2010. Councilor Abrams seconded the motion.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Mayor Pro-Tem Hill voted aye. The motion carried.

B. Edgewood Harvest Festival, Park Tours, Wine Tasting & Sales at Wildlife West Nature Park on August 28, 2010.

TAB 3.B.

ACTION REQUESTED OF COUNCIL:

Approve or disapprove of the public celebration permit

BACKGROUND AND RATIONALE:

Mr. Roger Alink needs council approval for a public celebration permit at Wildlife West Nature Park on August 28, 2010.

Ms. Mahalick reviewed the permit request.

MOTION: Councilor Abrams made a motion to approve the Public Celebration Permit for August 28, 2010. Councilor Ring seconded the motion.

VOTE: Mayor Pro-Tem Hill voted aye. Councilor Abrams voted aye. Councilor Ring voted aye. The motion carried.

4. MATTERS FROM THE ADMINISTRATOR/PLANNER.

A. Edgewood Police Department Union Information.

Ms. Mahalick reviewed this item for the Council stating there was a meeting scheduled for next Wednesday to discuss the terms. She added that she would bring an update to the Council at the next meeting.

B. Update on COLTPAC.

Ms. Mahalick reviewed this item for the Council stating that the funding was available for the constructions and fencing materials.

Ms. Mahalick also discussed the Santa Fe County Satellite office stating they would renew their lease but that it would terminate in August or September. She stated the Council would need to review the budget as this will impact the small cushion that existed.

Councilor Ring asked if the Town could advertise for tenants and if that could begin before Santa Fe County moved out.

Ms. Mahalick responded they would advertise but should wait until they receive formal notice of the vacancy as the lease requires 30 days notification.

Mayor Pro-Tem Hill asked if the County would cease operation prior to the August or September date.

Ms. Mahalick stated that she did not know at this time but this was for all satellite offices not just the Town of Edgewood.

5. FINANCE & ADMINISTRATION.

A. Approval of Town Bills for the month of May, 2010 and deletion of this item from future agendas.

TAB 5.A.

ACTION REQUESTED OF COUNCIL:

Approve or disapprove

BACKGROUND AND RATIONALE:

Council need to approve the payment of encumbrances for May, 2010 as has customarily been done. Staff is requesting that this be removed from future agendas and be included as information presented with the financial reports. Approval of the financial reports which includes the expenditures for the month will incorporate this information.

Mayor Pro-Tem Hill reviewed this item and stated he felt it would be more appropriate to remove this from future agendas and instead include it with the presentation of the financial reports.

At this time Councilor Simmons was present.

MOTION: Councilor Simmons made a motion to approve the Town Bills for the month of May, 2010. Councilor Ring seconded the motion.

Councilor Simmons discussed the costs of doing business as a Town including insurance and retirement for the Town Staff. She added that she did not think the public was aware of the high cost of some of these items.

VOTE: Councilor Ring voted aye. Councilor Abrams voted aye. Councilor Simmons voted aye. Mayor Pro-Tem Hill voted aye.

B. Approval of Financial Report for the month of May, 2010.

TAB 5.B.

ACTION REQUESTED OF COUNCIL:

Approve or disapprove

BACKGROUND AND RATIONALE:

Pursuant to section 2.2.2.10.J (3) (d) of 2.2.2.13 NMAC requires financial statements must be presented to a quorum of the agency's governing authority at a public meeting for approval.

Mayor Pro-Tem Hill asked if the Council had any objections to removing the Approval of the Town bills from future agendas but making the attachment a part of the financial report presentation.

Council agreed.

C. Acceptance of Interim Budget by Department of Finance & Administration.

TAB 5.C.

ACTION REQUESTED OF COUNCIL:

No action, information only

Ms. Mahalick reviewed this item for the Council stating that DFA had approved the Interim Budget and that it would go out for a public hearing for the meeting on July 7, 2010. She added that they would also bring a Resolution for end of year budget adjustments at that time.

Mayor Pro-Tem Hill asked how often the Council would review the budget.

Ms. Mahalick responded the Council would be provided the GRT's as well as the financial reports regularly and could discuss issues when and if they arise.

6. PUBLIC COMMENTS. Limit to 2 minutes per person.

D. Note: If you plan to testify under Public Hearing, please do not sign up for this topic.

Mayor Pro-Tem Hill called for public comments and advised the public that this was not the time to speak to any matters pertaining to the public hearing. He added the public hearing was not a forum for opinions but for testimony pertaining to the facts of the appeal. If anyone would like to state their opinion, these can be heard during the public comments which are limited to 2 minutes per person.

A public comment from the audience was inaudible.

At this time Mayor Pro-Tem Hill, Council, Town Attorney, and Attorneys for Campbell Ranch entered into discussion regarding public comments and the public hearing.

The Attorney for Campbell Ranch made an objection for any public comment regarding Campbell Ranch.

Ms. Anderson stated that the objection would be noted.

Councilor Simmons stated that the public has the right to speak on any matter under this agenda item.

Mr. Jim Smith stated he was running for the position of State Representative for District 22 and he appreciated the support from Edgewood.

7. PUBLIC HEARING.

Quasi Judicial Procedure: Certification that Public Notice of this Meeting has been posted as required:

Mayor Pro-Tem Hill reviewed the process and the responsibility of the Council in this matter.

Ms. Mahalick confirmed that public notice had been posted as required.

At this time the Council entered into Public Hearing.

This case is being heard under provisions required by the New Mexico Court of Appeals intended to protect the rights of all parties and their witnesses and the swearing in of all parties giving testimony. The affected parties will have the right to cross-examine persons giving testimony.

Confirmation of no conflict of interest or ex-parte communication.

Councilor Ring confirmed no conflict of interest or ex-parte communication.

Councilor Abrams confirmed no conflict of interest or ex-parte communication.

Councilor Simmons confirmed no conflict of interest or ex-parte communication.
Mayor Pro-Tem Hill confirmed no conflicts of interest or ex-parte communication.

A. Request for an Appeal of Planning & Zoning Commission Denial of the
Requested Extension of the 12/17/07 Preliminary Plats for Campbell Properties.
(ALL PARTIES TO TESTIFY WILL BE SWORN IN AT THIS TIME)

At this time all parties to give testimony were sworn in.

TAB 7.A.

ACTION REQUESTED OF COUNCIL
Approve or Disapprove (ROLL CALL VOTE)

BACKGROUND AND RATIONALE:

Campbell Corporation is requesting the council overturn the Planning & Zoning Commission 12/17/07 decision to deny an extension of time to file for final plat for the Division of Village 2 into three (3) Tracts, A, B, and C. and the Division of Village 2 Tract B into ninety-two (92) Residential lots.

Ms. Mahalick reviewed the time line of this case and provided a brief history for the Council and public.

Councilor Ring asked for the status of the PID

Ms. Mahalick responded that it was tabled and that Campbell Corporation did not believe it was fruitful to move forward with the PID. She reviewed the timeline since the annexation of Campbell Corporation.

Mayor Pro-Tem Hill stated he would add the original annexation development agreement approval of December 3, 2001 to the time line and asked if this was still a relevant document.

Ms. Mahalick confirmed that is was.

Ms. Davis, Attorney for Campbell Corporation discussed a supplemental letter that was submitted as evidence dated February 3, 2010 from Mr. Bushner the chief hydrologist from Vidler. She added that she had received a response on March 22, 2010 from Mr. Rael stating he would reject it as an introduction of new evidence because this was an appeal.

Mayor Pro-Tem Hill interrupted stating this needed to proceed with some clarity.

Ms. Davis stated that one of the reasons they were here tonight was to show there had been an unavoidable delay and it is in the public interest to allow the extension of the preliminary plat. She continued that the water was the primary reason this Council remanded it back to Planning & Zoning and that since then well drilling has continued and these supplemental letters show that work is continuing and this is relevant for the Council to consider in determining the delay was unavoidable. This is evidence that Campbell Ranch has been proceeding diligently in trying to meet the conditions contained in the preliminary plat.

Mayor Pro-Tem Hill asked how Ms. Davis determined that the Councils primary reason for remanding this back to Planning & Zoning was the water issue.

Ms. Davis stated that there was not a written remand but there was a discussion at the Planning & Zoning meeting regarding what the Commission should review. She

stated this was from page 37 of the October Planning & Zoning Commission meeting minutes.

Councilor Simmons stated the preliminary approval was made based on the understanding that an independent water company would provide service to the subdivision.

Councilor Ring stated the documents indicate the PRC did not allow this to go forward.

Ms. Mahalick stated the case was remanded back to P & Z with the understanding that there was some water drilling taking place because the water company had pulled out of the agreement. She added that approval of the preliminary plat was not contingent on finding water.

Ms. Davis reviewed the purpose of the hearing stating Campbell Ranch had requested an extension of the preliminary plat. She continued reading a portion of the subdivision regulations regarding extension of plats by the Planning & Zoning Commission based on public interest and unavoidable delay. She stated their purpose was to show that the delay had been unavoidable and was in the public interest. She also discussed meeting minutes from both Council and Planning meetings as well as findings presented at these meetings and presented information and documents pertaining to the hearings and water issues. She concluded that all of the evidence clearly shows the delay was unavoidable and that it is in the public interest to approve the extension.

Ms. Anderson, Town Attorney, asked if the appeal was denied would Campbell Ranch re-file and if the work for this already be done for the most part.

Ms. Davis responded that she thought they would re-file for a preliminary plat and that the work would be different because of the water issue. She also discussed the amount of funds expended by Campbell Ranch.

Councilor Simmons asked if the water service letter had been withdrawn or was it still effective.

Ms. Davis responded that it had not been withdrawn but was being actively protested. Councilor Simmons asked to clarify that it was this change in the way water was to be provided that prompted the Council to remand this back to the P & Z Commission. Mayor Pro-Tem Hill agreed that was one of the reasons it was remanded.

Councilor Ring asked if Ms. Davis felt Campbell had met all the requirements set out by the P & Z Commission for preliminary plat and if not what has been done to try and meet them.

Ms. Davis responded that they had not and this is why they are requesting the extension and that she had already explained the water issues. Council entered into discussions regarding the requirements of preliminary plat, whether they had been met, and final plat.

Ms. Anderson clarified that the purpose tonight was to determine if the denial should be upheld based on unavoidable delay and public interest.

Councilor Ring read the definition of public interest for the Council and public.

Ms. Mahalick asked Ms. Davis if she had a copy of the letter from GND dated November 2007 requesting preliminary plat submittal. She continued that in the letter there were 6 items that GND stipulated they would agree to meet. She listed them and provided the status of each stating none of them had been met.

Ms. Davis responded those were conditions to be met for final plat approval and what they were seeking tonight was the extension of the preliminary plat so they could move forward to meet these conditions for the final plat.

Council and Staff entered into discussions regarding the purpose of preliminary plat and final plat application. They also discussed what characterizes an unavoidable delay.

Ms. Davis stated the applicant did feel they had a reasonable expectation to meet the time frame because they had the water service letter and no way of anticipating such an outpour of protests to that water service. She added that many of the services that were part of the PID depend on water such as fire.

Mayor Pro-Tem Hill asked what would be the next step for the agreement if the Council approves the extension.

Ms. Anderson responded that Council can only find that either there is sufficient evidence to overturn the denial of extension or uphold it. She also asked of Council wanted to admit into evidence the two letters presented by the appellant.

Mayor Pro-Tem Hill stated that the possibility of making a decision based on information that may or may not be correct is very troubling and that it may contradict the public interest.

Ms. Anderson clarified that the Council could not only over turn the denial of extension but also to make modifications to it.

Mayor Pro-Tem Hill asked if there was any more information Ms. Davis would like to present on the behalf of Campbell Ranch.

Ms. Davis responded that she felt she had presented everything the Council should hear.

Mayor Pro-Tem Hill reviewed the Councils task stating they were to determine whether the delay was avoidable or unavoidable and if granting the extension was in the public interest.

Ms. Davis stated that it may be best to have a formal vote on whether the new evidence should be admitted. She continued that the letters should be admitted as evidence as they show that the delay was unavoidable.

At this time Mayor Pro-Tem Hill polled the Council asking if they would like to see the letter before making a decision.

Councilor Ring stated no.

Councilor Abrams stated no.

Councilor Simmons stated no.

Mayor Pro-Tem Hill stated no.

MOTION: Councilor Ring made a motion to grant the appeal. Councilor Abrams seconded the motion.

VOTE: Councilor Ring voted nay. Councilor Abrams voted nay. Councilor Simmons voted nay. Councilor Hill voted nay. The motion to grant the appeal is denied.

ANNOUNCEMENTS & CALENDAR REVIEW.

A. Regular Council Meeting – July 7, 2010 @ 6:30 P.M.

B. Regular Council Meeting – July 21, 2010 @ 6:30 P.M.

C. Note: The Town Hall Offices will be closed on Monday, July 5th in observance of 4th of July Holiday.

Ms. Mahalick reviewed the upcoming calendar. She also presented a flyer regarding the Craftsman Across America event scheduled for this weekend.

8. FUTURE AGENDA ITEMS.

9. ADJOURN.

MOTION: Councilor Simmons made a motion to adjourn the meeting.

VOTE: All Councilors voted aye. The motion carried.

Mayor Pro-Tem Hill adjourned the meeting at 8:53 P.M.

PASSED, APPROVED and ADOPTED this 7th day of July , 2010

Honorable Robert Stearley, Mayor

ATTEST:

Estefanie B. Muller, Clerk-Treasurer